



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,043	05/14/2002	Heiko Faubel	13470.1614USWO	1175
23552	7590	09/22/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DOUYON, LORNA M	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/048,043

Applicant(s)

FAUBEL ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This action is responsive to the amendment filed on June 25, 2004.
2. Claims 12-13 have been canceled and new claims 14-15 have been added. Claims 1-11, 14-15 are pending.
3. The objection to claim 1 for minor informality is withdrawn in view of applicants' amendment.
4. The rejection of claims 3, 6-13 under 35 U.S.C. 112, second paragraph is withdrawn in view of applicants' amendment.
5. The rejection of claims 7, 8, 12 and 13 under 35 U.S.C. 101 is withdrawn in view of applicants' amendment.
6. Claims 1-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stamm (US Patent No. 5,885,949) for the reasons set forth in the previous office action.
7. Claims 1-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gladfelter et al. (US Patent No. 5,234,615), hereinafter "Gladfelter" for the reasons set forth in the previous office action.

Response to Argument

8. Applicant's arguments filed June 25, 2004 have been fully considered but they are not persuasive.

With respect to the rejection based upon Stamm, Applicants argue that there is no discussion in Stamm regarding the shape or size of the shaped body, and that there is no suggestion as to the shape of the body, other than it being a pellet or a tablet. Applicants also argue that Stamm does not teach or suggest a water-soluble shell around the solid cleaner mass.

The Examiner respectfully disagrees with the above arguments because in col. 5, lines 36-37, Stamm teaches that the tablet may have any suitable size according to manufacturing and consumer preferences. Hence, with this teaching there is a sufficient guidance and motivation to one of ordinary skill in the art to prepare a tablet which would read on the dimensions of the tablet of the present claims. In addition, a change in size is within the level of ordinary skill in the art, see *In re Rose*, 105 USPQ 237 (CCPA 195). With respect to the water soluble shell surrounding the solid cleaner mass, in col. 5, lines 5-35, Stamm teaches that the tablet is prepared by mixing the ingredients with polyvinyl alcohol before tableting, hence, the polyvinyl alcohol would have reasonably been expected to surround the other ingredients during the mixing process, thus forming a water-soluble shell.

With respect to the rejection based upon Gladfelter, Applicants argue that even though various dimensions and shapes are provided in Gladfelter, these do not lead one to the shape and size recited in the pending claims, and that the short cylinder of Gladfelter would be difficult to pass through the bottle's neck opening. Applicants also argue that Gladfelter teaches a film around the material as opposed to the water-soluble shell of the present claims.

Art Unit: 1751

The Examiner respectfully disagrees with the above arguments because in col. 7, lines 17-22, Gladfelter teaches that a pellet can have the following dimensions: a width ranging from about 5 to 30 mm, a height ranging from about 10 to 80 mm, and a depth ranging from about 10 to 30 mm, whose dimensions overlap those recited. With respect to the water-soluble bag or film of Gladfelter which contains the pelletized composition, such water-soluble film or bag would read on “water-soluble shell” of the present claims because the term “shell” is relative and would have encompassed said bag or film.

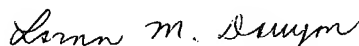
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lorna M. Douyon
Primary Examiner
Art Unit 1751